

## **Commission Meeting Minutes December 4, 2014**

Chairman Brown called the meeting to order at 2:40 PM. He then acknowledged the other Commissioners present: Commissioners John Langan, James Machado, Robert McCarthy, and Gerald McDonough.

Chairman Brown announced that the Commission meeting is being tape recorded which will be noted in the minutes, that a stenographer is taking notes, and asked that everyone state their names prior to speaking. It was noted that PERAC does not pay for the stenographer and that the official minutes of the Commission are prepared by Kim Boisvert.

PERAC Staff Present: Executive Director Joseph Connarton, Deputy Executive Director Joseph Martin, General Counsel/Deputy Director John Parsons, Deputy General Counsel/Managing Attorney Judith Corrigan, Senior Actuary James Lamenza, Senior Associate General Counsel Ken Hill, Associate General Counsel Patrick Charles, Director of Strategic Planning Michael DeVito, Compliance Officer Thomas O'Donnell, Compliance Counsel Derek Moitoso, Compliance Analyst Cheryl Johnson, Chief Auditor Harold Chadwick, Director of Administrative Services Caroline Carcia, and Senior Executive Assistant Kim Boisvert.

The following guests were welcomed: Nick Favorito from the State Retirement Board, Ericka Glaster and Sean Neilon from the Massachusetts Teachers' Retirement Board, Tom Gibson from the Belmont and Middlesex County Retirement Boards, Patrick Brock from the Hampshire County Retirement Board, Katie McCue from the Massachusetts Municipal Association ("MMA"), Frank Valeri from the Massachusetts Retirees Association, and Alexander Loos from Doris Wong Associates.

Commissioner McCarthy made a motion to adopt the minutes of the October 17, 2014 meeting as presented. Commissioner McDonough seconded the motion and the minutes were unanimously adopted.

### **Administrative Sub-Committee Update**

Chairman Brown reviewed the Administrative Sub-Committee meeting that was held on December 1, 2014. Discussed were the Executive Director's annual review and compensation, the Hull v. CRAB, Leary & PERAC, MA Appeals Court Case 13-P-1587, and the SFI forms.

In regard to the Executive Director's annual review, Chairman Brown reported that the Sub-Committee discussed each objective and success indicator then recommended that the Overall Rating for the Executive Director be Commendable Plus. The Sub-Committee also recommended a 3% salary increase retroactive back to his anniversary date of October, and that these recommendations be forwarded to the full Commission.

Chairman Brown then reported that the Sub-Committee discussed the Hull v. CRAB, Leary & PERAC, MA Appeals Court Case 13-P-1587, as it pertains to changing a retirement date. The Sub-Committee made a recommendation that if PERAC is made aware of a Section 111F settlement agreement involving a retirement date change that staff consults with the Commission prior to taking a position.

Chairman Brown reported that the final subject discussed at the Sub-Committee was whether the Commissioners of PERAC should file an annual Statement of Financial Interests ("SFI") such as the form that retirement board members file. He noted that several Commissioners do currently file an SFI with the State Ethics Commission. A copy of the SFI report will be distributed to the Commissioners for further discussion at the next Administrative Sub-Committee.

Commissioner McCarthy made a motion that the Commission accept the Sub-Committee report, the Executive Director's annual review be rated "Commendable Plus", and provide a 3% salary increase retroactive back to his anniversary date of October. Commissioner Machado seconded the motion.

Commissioner McDonough objected to the motion and said he would prefer the review and the proposed salary increase be split into two different motions. Commissioner McCarthy said he has no issue with separating the motion.

Commissioner McCarthy made a motion that the Commission accept the Sub-Committee report that the Executive Director's annual review be rated "Commendable Plus". Commissioner Langan seconded the motion and the motion was adopted.

Commissioner McCarthy made a motion that the Executive Director receive a 3% salary increase retroactive back to his anniversary date of October. Commissioner Machado seconded the motion.

Commissioner McDonough, on behalf of the Auditor, stated that he would have to vote against a salary increase at this time. He said this is no reflection on the Executive Director but is based on the fiscal shortfall of the Commonwealth.

On the motion to recommend a 3% increase for the Executive Director, it was adopted with Commissioner McDonough voting against and all other Commissioners voting in favor.

Mr. Connarton thanked the Commission for its very kind words and increase. He understands what Commissioner McDonough stated and why. He is very proud to run this agency and thanked the Commission for its continued support.

### **Actuarial Update**

Mr. Lamenzo distributed a two page exhibit with pie charts illustrating current public plan investment return assumptions in Massachusetts and nationwide. He recommended decreasing the assumption on 1/1/15 from 8.00% to 7.75% for the State and Teachers' plans. Prior to 2013 the State and Teachers' assumptions were 8.25%. They were reduced to 8% as of 1/1/13. Our standard assumption for the local systems has been 7.75% since 1/1/13. He estimated that the plans unfunded actuarial liability would increase by about \$1.8 B. Based on an estimate of the 1/1/15 valuation results, the plan would be fully funded in 2036 (the same time frame as the current schedule which is based on the 1/1/13 valuation).

Commissioner McDonough made a motion to accept Mr. Lamenzo's recommendation and decrease the investment return assumption for the State and Teachers' plans from 8.00% to 7.75%. Commissioner Langan seconded the motion.

Discussion ensued whether or not the decrease would require legislative approval, that this would be discussed at the next Consensus Tax Revenue meeting, that the trend is moving lower than 8%, this is a difficult concept to think that urban centers over the next 10 or 15 years will be able to find a 6% increasing revenue stream in the current environment, and whether this motion should be deferred until January 2015 when the new Governor will be in place.

Commissioner McCarthy made an amendment to defer this to the January 2015 Commission meeting. Commissioner Langan seconded the motion. The motion was adopted with Commissioners Brown and McDonough voting against.

### **Legal Update**

Mr. Hill reported on Howard v. Haverhill Retirement Board & PERAC, CR-07-1052, and Mr. Moitoso reported on Brienzo v. Bristol County Retirement Board, CR-11-45 (DALA 2014).

### **Legislative Update**

Mr. DeVito reported that legislation has been filed granting PERAC subpoena power for hearings conducted under Section 15(7). He then reported that Chapter 359 of the Acts of 2014 was signed into law, appropriating \$25,000 to PERAC to finance OPEB audit work over the next three (3) years.

Mr. DeVito reported there has been no final action on the following bills: H. 3560 adding additional Commissioners to PERAC, H. 3377 Plymouth County Retirement Board Pension Obligation Bonds, H. 4354 Fossil Fuels, and S. 2343 Disability Benefit. He stated that the 2013-2014 legislative session ends on January 7, 2015. He also reported that the Athol Retirement Board legislation has been adopted and is now Chapter 360 of the Acts of 2014.

### **Audit Update**

Mr. Chadwick reported that there is a close out audit being conducted on the Athol Retirement System prior to transferring over to the Worcester Regional Retirement System. He then stated that audits are currently occurring at the Leominster, Lynn, and Revere Retirement Boards. He stated that an exit conference is pending for the New Bedford and Stoneham Retirement Boards. Internal reviews are being conducted on the Attleboro, Blue Hills, Lowell, Mass Housing, Melrose, Methuen, Minuteman Regional School District, Pittsfield, State, Teachers' Wakefield, Webster, West Springfield, and Woburn Retirement Boards audit reports. He reported that he is waiting for responses from the Athol and Plymouth Retirement Boards. Mr. Chadwick stated that Chicopee, Fall River, North Attleboro, and Peabody Retirement Board audit reports have been posted on the PERAC Web Page since the last Commission meeting and explained their respective findings. Finally, Mr. Chadwick reported that follow up audits have been completed at the Haverhill, Lawrence, Lexington, and Norfolk County Retirement Board then explained the final results.

### **Compliance Update**

Mr. O'Donnell reported that the educational program has been in effect for three years now and then recapped the education section of the law. He stated that each board member must earn 18 credits over a three year period. If the member does not meet their obligation he/she will no longer be able to serve on any retirement board. He explained that there are some members who are having issues meeting this requirement. He stated that there are many educational opportunities for board members to earn credits.

Mr. O'Donnell then reported that the Compliance Unit is gearing up for the Vendor Disclosures (over 1500 people from about 300 firms) and then will begin working on the SFIs.

### **Executive Director's Report**

Mr. Connarton acknowledged the new Executive Director of the Teachers' Retirement System, Ms. Erika Glaster, and congratulated her on her new appointment.

Mr. Connarton then reported on staff activities since the last Commission meeting. He reported that he attended a few presentations with Ms. Corrigan entitled "Setting the Record Straight" which were very well attended and complimented her about how passionate she is about the presentations she gives. He then discussed how important the educational requirements are. There are still some members that are shy on their credits and we are working with those individuals as there is still time to earn credits such as the presentation here in our office on December 30, 2014 and there are some online courses still available.

Mr. Connarton then discussed the MacAloney v. Worcester Regional Retirement System and PERAC, CR-11-19 (DALA 2011) case which created new case law. Representative Fallon requested that PERAC meet with some of his Malden constituents regarding this case law. Mr. Moitoso met with the individuals regarding their service for call firefighter time.

Discussion ensued regarding Attorney Sacco's memo advising his clients not to accept payment or process these buybacks, PERAC's goal is to have this uniformly implemented as opposed to assisting single individuals, or issuing a temporary order to force the Board to accept payment.

Mr. Connarton stated PERAC could issue a temporary order but the broader issue is that members are entitled to benefits, and shouldn't have to seek their own counsel or go through the appellate process to receive those benefits. Our goal is to resolve this issue as time is of the essence for one particular member whose retirement is imminent.

Further discussion ensued regarding if this issue is an administrative issue, if the full board is involved in this issue, the fluctuation of Attorney Sacco's opinion on a case by case basis, the timeliness of resolving this issue, the members retirement date, if the member is at maximum age, and so on. Mr. Connarton will provide a follow up at the January meeting.

Mr. Connarton stated that the January 28, 2015 Commission meeting has been scheduled, and may be an issue for those individuals attending the NCPERS Conference in Washington. He then stated that Ms. Boisvert will follow up with the Commissioners to be sure the scheduled date will accommodate all schedules.

Mr. Connarton then stated that the draft 2015 Commission meeting schedule, with meetings primarily on the third Wednesday at 10:30 AM, has been distributed.

Mr. Connarton reported on 840 CMR 10:10(3) and 10:15(4) regarding the Annual Review of Medical Fees and at this time he does not recommend an increase.

Commissioner McDonough moved to continue the previous schedule of \$100 for the Medical Fees. The motion was seconded by Commissioner McCarthy and it was adopted.

Mr. Connarton reported that the Pioneer Institute has asked for our comments on another report that will be issued soon pertaining to the funding ratios of retirement systems and the assumed rate of returns. One comment in this report which is not true is "... State, Teachers', and Boston are lagging far behind local leaders when it comes to funding goals but they retain some chance of survival if action is taken immediately." We have, several times, provided comments to the Pioneer Institute regarding their old or inaccurate data. Mr. Connarton stated that the statement is not true, incendiary, and uses misleading language purposefully. He stated that this is discouraging in that the Commonwealth is continually put in the same basket as other states around the country in terms of funding levels and appropriation mechanisms. The Pioneer Institute continues to compare apples to oranges. Massachusetts uses different investment strategies, COLA basis, and assumptions throughout, as opposed to other systems in other states.

Commissioner McCarthy asked for a copy of PERAC's comments and Pioneer's draft report. Mr. Connarton stated that he would provide these.

Mr. Connarton reported that we are dealing with an issue at the Framingham Retirement System ("FRS"). There is a back log of their cash books and actuarial data. We remain fairly optimistic that we will receive the data, if not we will have to take action at the January meeting. The Chairman of the FRS has provided a schedule for submitting the appropriate reports.

### **Commission Travel**

Mr. Connarton notified the Commission about the upcoming 2015 NCPERS Healthcare Symposium and Legislative Conference being held on January 24 through 27, 2015 in Washington, DC should there be any interest in attending.

Commissioner McCarthy made a motion to grant any Commissioners and staff to attend the above conferences. Commissioner Machado seconded the motion and it was adopted.

### **Other Business**

Chairman Brown stated that the next Commission meeting is scheduled to be held on Wednesday, January 28, 2015 at Noon and appears to be a conflict for several Commissioners. It was suggested that Ms. Boisvert reach out to the Commissioners and notify all regarding a new date.

He inquired of the Commissioner's preference for the calendar year 2015 to meet either early or later in the day. It was discussed that Ms. Boisvert would reach out to the Commissioners and provide a new draft for the January meeting and a schedule would be adopted then.

Mr. Connarton stated that Kate Fitzpatrick, MMA Representative, has been sworn in as a new Commissioner and he expects her to attend the January meeting.

Commissioner McDonough stated that the article that was distributed by the *New York Times* dated October 18, 2014 "***Behind Private Equity's Curtain***" was a real eye opener for him especially when the boards were advocating for us to relax our investment "standards". It is just an incredible game changer to read about all the manipulation that goes on in Wall Street and its time to have someone oversee what is happening. He also stated for the record that he is disturbed about the Delaware Supreme Court case regarding the shareholders suit and what they must be paying for their legal fees, meanwhile making contributions to political groups dedicated to undermining our pension systems. Another issue that bothers him is the article on the front page of the *Boston Globe* entitled "***With big boost in pension, many Mass. judges retire***" because judges receive special benefits to get a better retirement without even 3 or 5 years of service, or even dual pensions where an individual could work as an assistant attorney general then become a judge and get 2 separate benefits, or for example state police who should be in the same disability system as all other public employees. He stated that the examples discussed above are all unnecessary burdens on our retirement systems and are boondoggles.

Commissioner McDonough made a motion to refer the above issues to the Legislative Sub-Committee to review. Commissioner Langan seconded the motion and it was adopted.

Mr. Favorito would like to offer his service to the Sub-Committee to help with any information it may need relative to the judges' system.

Commissioner Machado made a motion to adjourn. Commissioner McDonough seconded the motion, and the motion was adopted. The meeting adjourned at 4:20 PM.

### **Commission Meeting Documents**

Commission Agenda for the meeting for December 4, 2014

Commission Minutes for October 17, 2014

### **Legal Update**

Memorandums regarding: Howard v. Haverhill Retirement Board & PERAC, CR-07-1052, and Brienzo v. Bristol County Retirement Board, CR-11-45 (DALA 2014)

**Legislative Update**

Monthly Legislative Agenda and bullet points outlining legislation

Letter and Legislation sent to Senate Clerk Welch and House Clerk James regarding PERAC's 2015 Legislative recommendation

**Audit Update**

Recent PERAC Audit Findings cover sheet and the respective audit findings

**Executive Director's Report**

Updated Staff Activities Memo

Draft Commission meeting schedule for 2015

Memo to Commissioners regarding 840 CMR 10:10(3) & 10:15(4) medical testing fee

**Commission Travel**

NCPERS Healthcare Symposium and Legislative Conference agendas

**Other Documents**

*NY Times* article ***Behind Private Equity's Curtain***

*Asset Internal Inc.* article ***Saving Public DBs a Matter of Pension Fund Math***

**Distributed at the Meeting**

PERAC Memo # 34/2104 regarding GASB 67/68

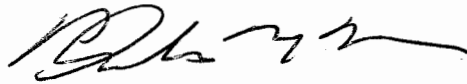
Executive Director's 2014 Annual Performance Review

Investment Return Assumption Exhibit

*Eagle Tribune* article ***Board drops out of police chief, ex-officer fight***

Compliance Educational statistics

Approved:



Philip Y. Brown, Chairman  
Public Employee Retirement  
Administration Commission